

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.88 OF 2017

Milind S/o Bhaskar Ingle

..VS..

State of Maharashtra, through Police Station, Ramdaspath, Taluka Akola, District Akola

.....
 Office Notes, Office Memoranda of Coram,
 appearances, Court orders or directions
 and Registrar's orders

Court's or Judge's Order

Shri P.S. Girdekar, counsel for the applicant.

Shri H.R. Dhumale, Addl.P.P. for the non-applicant/State.

CORAM : P.N. DESHMUKH, J.

DATED : FEBRUARY 20, 2017.

This application is filed for bail by accused in Crime No.286 of 2016 registered for the offences punishable under Sections 376 and 417 of the Indian Penal Code.

Heard learned counsel for the applicant and learned Additional Public Prosecutor for the non-applicant/State.

It is submitted that the report came to be lodged by prosecutrix only after she was pregnant and in spite of having long association with applicant and though prosecutrix with her wish developed physical relationship with applicant, no report was lodged earlier and it is only after applicant refused to marry prosecutrix and she having conceived lodged report.

It is further contended that as per the

impugned order, bail came to be rejected as applicant though married had indulged into such act with victim girl and on the ground that D.N.A. samples of newly born baby are necessary to be obtained and, therefore, at least till delivery of victim girl, applicant was not considered to be entitled for bail.

From the report it is revealed that prosecutrix is above 18 years old and after contacting applicant on phone for a period of three years in April 2016 met applicant at Patur who is alleged to have sexually assaulted her on the pretext of marrying her. It is further stated that, thereafter, applicant continued such relation, due to which she remained pregnant and lodged report.

On perusal of contents thereof it is found that report came to be lodged only after applicant did not kept his alleged promise to marry prosecutrix and after she became pregnant. Admittedly, prosecutrix is above 18 years old and it is material to note that she met applicant during April 2016 after being in contact telephonically for a period of three years. It is further material to note that after their meeting, since applicant said to marry her, she indulged in physical relation with applicant continuously till she became pregnant and, thereafter, lodged the report. It is, therefore, *Prima facie* found that applicant has not indulged into forceful sexual intercourse with complainant.

Impugned order noted fact that application is rejected as at that time victim had not delivered the child and thus for obtaining D.N.A. test samples of newly born child were then not obtained. However, as per the reply on record, victim has delivered child on 17.1.2017 and investigating agency has collected blood samples of newly born child as well as of applicant and of complainant for the purpose of D.N.A. test. In that view of the matter and since charge-sheet is filed, application is allowed as per order below:

Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

While on bail, applicant shall attend Ramdaspath Police Station, Taluka Akola, District Akola once in three months of first day of each such month and shall not make any attempt to contact prosecutrix or to pressurize her in any manner.

Learned Trial Court shall not get influenced by the observations above and shall independently evaluate the evidence at the time of Trial.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

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